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FILED

SEP 25 2008

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

9 UNITED STATES DISTRICT COURT

10 NORTHERN DISTRICT OF CALIFORNIA

11 SAN JOSE DIVISION

12 UNITED STATES OF AMERICA,) Case No. CR 08-00445 HRL
13 Plaintiff,)
14 v.) STIPULATION AND [PROPOSED]
15 ROBERT WAYNE McMARTIN,) ORDER CONTINUING CHANGE OF
a/k/a Charles Bernie Kaiser) PLEA DATE AND EXCLUDING TIME
16) UNDER THE SPEEDY TRIAL ACT
17 Defendant.)

18
19 The undersigned parties respectfully request that the change of plea hearing scheduled for
20 September 25, 2008 at 1:30 p.m. be continued to October 2, 2008 at 9:30 a.m. The reason for the
21 continuance is to afford defendant additional time to review a proposed disposition offered by the
22 government and for defense counsel to complete his investigation of the case. In addition, the
23 parties agree and stipulate that a waiver of time under the Speedy Trial Act from September 25,
24 2008 to October 2, 2008 is appropriate. The parties agree and stipulate that an exclusion of time
25 is appropriate based on the defendant's need for effective preparation of defense counsel.

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STIPULATION AND [PROPOSED] ORDER
No. CR 08-0445 HRL

1 SO STIPULATED:

JOSEPH P. RUSSONIELLO
United States Attorney

2 Dated: 9/22/08

/s/
SUSAN KNIGHT
Assistant United States Attorney

4 Dated: 9/24/08

/s/
BERNARD J. VOGEL, JR.
Attorney for Defendant

7 Accordingly, the Court HEREBY ORDERS that the change of plea hearing is continued
8 to October 2, 2008 at 9:30 A.M.

9 For good cause shown, the Court FURTHER ORDERS that time be excluded under the
10 Speedy Trial Act from September 25, 2008 to October 2, 2008. The Court finds, based on the
11 aforementioned reasons, that the ends of justice served by granting the requested continuance
12 outweigh the best interest of the public and the defendant in a speedy trial. The failure to grant
13 the requested continuance would deny defendant reasonable time necessary to reach a
14 satisfactory plea agreement and would thus result in a miscarriage of justice. The Court therefore
15 concludes that this exclusion of time should be made under 18 U.S.C. §§ 3161(h)(8)(A) and
16 (B)(i).

17 SO ORDERED.

18 DATED: 9/25/08

19 HOWARD R. LLOYD
20 United States Magistrate Judge